

**Final Rule 210.8**

Paragraph (a) of final rule 210.8 discusses the number of copies of the complaint and any motion for temporary relief which each complainant must file with the Commission. The Commission proposes to amend paragraph (a) to require the complainant to file enough nonconfidential copies for use by the Commission and its staff, service by the Commission on each proposed respondent, and service by the Commission on the government of the country of each foreign respondent.

**Subpart H—Temporary Relief****Final Rule 210.52**

Paragraph (e) of final rule 210.52 identifies the rules to be followed if a complaint, a motion for temporary relief, or the documentation supporting a motion for temporary relief contains confidential business information as defined in 19 CFR 201.6(a). The Commission proposes to amend paragraph (e) of final rule 210.52 to include references to final rules 210.4(a) and 210.8(a) (which the Commission also proposes to amend).

**PART 210—ADJUDICATIVE PROCEDURES**

1. The authority citation for part 210 will continue to read as follows:

**Authority:** 19 U.S.C. 1333, 1335, and 1337.

2. For the reasons set forth in the preamble, the Commission proposes to revise paragraph (f)(3) of § 210.4 to read as follows:

**§ 210.4 Written submissions; representations; sanctions.**

\* \* \* \* \*

(f) *Specifications; filing of documents.*

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(3) (i) If a complaint, a motion for temporary relief, or the documentation supporting a motion for temporary relief contains confidential business information as defined in § 201.6(a) of this chapter, the complainant shall file nonconfidential copies of the complaint, the motion for temporary relief, or the documentation supporting the motion for temporary relief concurrently with the requisite confidential copies, as provided in § 210.8(a) of this part.

(ii) Persons who file the following submissions that contain confidential business information covered by an administrative protective order, or that are the subject of a request for confidential treatment, must file nonconfidential copies and serve them on the other parties to the investigation or related proceeding within 10

calendar days after filing the confidential version with the Commission:

(A) A supplement to a complaint and all exhibits thereto;

(B) A response to a complaint and all supplements and exhibits thereto;

(C) All submissions relating to a motion to amend the complaint or notice of investigation; and

(D) All submissions addressed to the Commission.

Other sections of this part may require, or the Commission or the administrative law judge may order, the filing and service of nonconfidential copies of other kinds of confidential submissions. If the submitter's ability to prepare a nonconfidential copy is dependent upon receipt of the nonconfidential version of an initial determination, or a Commission order or opinion, or a ruling by the administrative law judge or the Commission as to whether some or all of the information at issue is entitled to confidential treatment, the nonconfidential copies of the submission must be filed within 10 calendar days after service of the Commission or administrative law judge document in question. The time periods for filing specified in this paragraph apply unless the Commission, the administrative law judge, or another section of this part specifically provides otherwise.

3. For the reasons set forth in the preamble, the Commission proposes to revise paragraph (a) of § 210.5 to read as follows:

**§ 210.5 Confidential business information.**

(a) *Definition and submission.*

Confidential business information shall be defined and identified in accordance with § 201.6(a) and (c) of this chapter. Unless the Commission, the administrative law judge, or another section of this part states otherwise, confidential business information shall be submitted in accordance with § 201.6(b) of this chapter. In the case of a complaint and a motion for temporary relief filed under this part, the number of nonconfidential copies shall be prescribed by § 210.8(a) of this part.

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4. For the reasons set forth in the preamble, the Commission proposes to revise paragraph (a) of § 210.8 to read as follows:

**§ 210.8 Commencement of preinstitution proceedings.**

(a) *Upon receipt of complaint.* A preinstitution proceeding is commenced by filing with the Secretary a signed original complaint and the requisite number of true copies. The complainant

shall file 14 confidential copies of the complaint, 14 nonconfidential copies, plus one confidential copy and one nonconfidential copy for each person named in the complaint as violating section 337 of the Tariff Act of 1930, and one nonconfidential copy for the government of each foreign country of any person or persons so named. If the complainant is seeking temporary relief, the complainant must file 14 confidential copies of the motion, 14 nonconfidential copies, plus one additional confidential copy and one additional nonconfidential copy of the motion for such relief for each proposed respondent, and one nonconfidential copy for the government of the foreign country of the proposed respondent. The additional copies of the complaint and motion for temporary relief for each proposed respondent and the appropriate foreign government are to be provided notwithstanding the procedures applicable to a motion for temporary relief, which require service of the complaint and motion for temporary relief by the complainant.

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5. For the reasons set forth in the preamble, the Commission proposes to revise paragraph (e) of § 210.52 to read as follows:

**§ 210.52 Motions for temporary relief.**

\* \* \* \* \*

(e) If the complaint, the motion for temporary relief, or the documentation supporting the motion for temporary relief contains confidential business information as defined in § 201.6(a) of this chapter, the complainant must follow the procedure outlined in §§ 210.4(a), 210.5(a), 201.6(a) and (c), 210.8(a), and 210.55 of this part.

Issued: March 23, 1995.

By Order of the Commission.

**Donna R. Koehnke,**

*Secretary.*

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**ENVIRONMENTAL PROTECTION AGENCY****40 CFR Chapter I**

[FRL-5174-3]

**National Emission Standards for Hazardous Air Pollutants Streamlined Development: Announcement and Request for Comments**

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Announcement and Request for comments.

**SUMMARY:** Section 112(d) of the Clean Air Act (CAA) directs EPA to reduce emissions of hazardous air pollutants (HAPs) by requiring new and existing sources to achieve an emissions standard attainable by the maximum achievable control technology (MACT). The HAPs regulated under Section 112 have been characterized as carcinogenic, mutagenic, bioaccumulative, and causing other adverse health and environmental effects. MACT standards are intended to significantly reduce these effects.

This notice announces and requests comments on EPA's plan to use a streamlined approach to promulgating MACT standards, termed MACT Partnerships. Section 112(e) requires EPA to promulgate, on a strict schedule, MACT standards for the more than 150 source categories of HAPs listed pursuant to Section 112(c)(1). This large number of MACT standards can not be addressed by the traditional approach to standards development. The MACT Partnerships approach is designed to expedite the regulatory development process and provide information for case-by-case emission limitation determinations as required by Section 112(g) and 112(j) of the CAA. The MACT Partnerships approach is founded on the mutual interests of all the major stakeholders, including EPA, States and local agencies, industry, and environmental organizations. This notice also announces the availability on the Technology Transfer Network (TTN), one of EPA's electronic bulletin boards, of an initial list of MACT standards being handled under MACT Partnerships.

**DATES:** *Comments:* Comments must be received on or before May 15, 1995.

**ADDRESSES:** *Comments:* Comments should be submitted (in duplicate or as a WP5.1 file, if possible) to: Policy, Planning, and Standards Group; Emission Standards Division (MD-13), U. S. Environmental Protection Agency, Research Triangle Park, North Carolina 27711, telephone number (919) 541-5623.

**TTN:** The TTN provides information and technology exchange in various areas of air pollution control. The service is free, except for the cost of a phone call. Dial (919) 541-5742 for up to a 14,400 bps modem. If more information on TTN is needed, call the HELP line at (919) 541-5384.

**FOR FURTHER INFORMATION CONTACT:** For general information concerning this notice, contact Albert H. Wehe at (919)

541-5623; Policy, Planning and Standards Group; Emission Standards Division (MD-13), U.S. Environmental Protection Agency, Research Triangle Park, NC 27711.

#### **SUPPLEMENTARY INFORMATION:**

##### **I. Background**

Pursuant to Section 112(c) and 112(e) of the CAA, EPA published two **Federal Register** notices laying out the source categories of HAPs regulated under Section 112(d) of the Clean Air Act. In the first **Federal Register** notice (57 FR 31578, July 16, 1992), EPA published the source categories of HAPs as required under Section 112(c). In the second **Federal Register** notice (58 FR 83941, December 3, 1993), EPA presented the list in a regulatory schedule as required by Section 112(e). In addition to requiring the regulatory schedule, Section 112(e) requires EPA to develop MACT standards under Section 112(d) according to this regulatory schedule.

There are consequences if EPA fails to set the MACT standards on time. Thirty-nine MACT standards were targeted for promulgation by November 1994, forty-three more by Nov 1997, and an additional eighty-seven by Nov 2000. Section 112(j) of the CAA requires the States to establish emission limitations, using a case-by-case determination of what the Federal standard would have been if EPA fails to promulgate Federal standards.

Case-by-case MACT determinations under 112(j) will require substantial information and resources from State and local agencies, industry, and environmental groups. Individually, State and local agencies, industry and environmental groups have expressed their interest in avoiding a significant number of case-by-case MACT determinations. Accordingly, there appears to be a strong incentive for EPA, State and local agencies, industry and environmental groups to work together to enable EPA to promulgate the standards on schedule and to gather information for 112(j) case-by-case MACT determinations.

##### **II. Current Situation**

The EPA is currently behind schedule on a number of MACT standards due in November 1994 and potentially behind schedule on a number of MACT standards due in November 1997. The EPA has promulgated about one-half of the MACT standards due in November 1994. The EPA is already under court-ordered schedules to complete many of the remaining MACT standards due in November 1994. These schedules will

ensure that standards are promulgated before case-by-case MACT determinations would be required by Section 112(j). The EPA has recently been served notice by an environmental group indicating the group plans to file a petition to compel EPA to promulgate the few standards due in November 1994 that are not done nor on an existing court-ordered schedule.

In 1994, EPA had to postpone work on several of the MACT standards due in November 1997 and November 2000 (the 7-year and 10-year MACT standards) as a result of resource constraints. The EPA had to do so in part to ensure that adequate resources were available for the court-ordered MACT standards. These resource constraints have put EPA behind on completing the 7-year and 10-year MACT standards.

The amount of work (and therefore resources) needed to complete the 7-year and 10-year MACT standards on time is difficult to predict. Nevertheless, given the EPA's experience of the MACT standards completed to date, EPA believes that the amount of work can be significantly reduced by streamlining and re-engineering the way these standards are developed. This work helps EPA appropriately subcategorize source categories, define the MACT floor (see Section 112(d)), address emissions of special HAPs (e.g., Great Waters and urban air toxics), and evaluate potential regulatory options beyond the MACT floor.

Resources have been traditionally used by EPA to gather and analyze essentially all the data and information necessary to reach the regulatory decisions associated with standards such as MACT standards. Many of the 7-year and 10-year MACT standards had not been studied by EPA prior to recent years. Traditionally, EPA has found that it takes about 4 years to develop national technology-based standards such as MACT standards. Accordingly, to complete the 7-year MACT standards by November 1997, EPA had to begin in earnest to work on these standards early in 1994. Thus, to complete the 7-year MACT standards on time, EPA needs to reduce the amount of work and time associated with these standards.

In order to meet both the 7-year and 10-year deadlines, EPA has concluded that it must develop new approaches to streamline the standard setting process and to leverage its limited resources. To that end, EPA is currently initiating a new process for developing MACT standards that involves a partnership with states, industry, and environmental organizations. This partnership, called MACT Partnerships, is founded on the

mutual interests of all the major stakeholders in the air toxics program.

For many source categories for which MACT standards are required, State and local agency personnel have the expertise, information and desire to provide technical assistance for the development of MACT standards. Industry personnel are also invaluable sources of technical expertise and data needed to develop MACT standards. In addition, environmental groups have a thorough understanding of the interests of the public and can assist in the development of as many MACT standards as practical.

### III. Streamlined MACT Development Approach

The MACT Partnerships program, as currently envisioned, involves two phases for each MACT standard. The first phase involves development of a "presumptive MACT". A "presumptive MACT" is not an emission standard; but it serves as a statement of current knowledge of maximum available control technologies and a basis for a decision on how to develop the emission standard for the source category involved. The second phase is the formal standard development process, which results in a promulgated MACT standard for the source category.

In the first phase of the MACT Partnerships program, the development of a "presumptive MACT", begins with two main steps: (1) A meeting between EPA and State and local agencies, known as the presumptive MACT meeting and (2) consultations with industry, environmental and other interest groups. In the presumptive MACT meeting, EPA, and States review available information to estimate what MACT would be if only this information were used in the determination. This draft presumptive MACT then goes through a consultation stage where industry and environmental groups are invited to comment on the selected presumptive MACT. After this consultation, EPA and the State/local agencies determine a final presumptive MACT and how best to complete the development of a standard, with the normal opportunities for public comment. This determination of a presumptive MACT and a decision on how to complete development of a standard are the two products of the first phase.

For the second phase of MACT Partnerships, EPA envisions the use of one of three basic regulatory development paths: Adopt-a-MACT, share-a-MACT, or a streamlined-traditional approach. In all cases, EPA would eventually propose and then

promulgate the MACT standard. The "Adopt-a-MACT" path allows EPA to enter into an agreement with a State wherein the State would accept primary responsibility for data collection and analysis. Alternatively, a "share-a-MACT" path allows states, industry or both to share with EPA the responsibility for developing the underlying data and analysis from which EPA would determine the MACT emission limitation. When no suitable partners can be found, a "streamlined-traditional" path is the last alternative. In the "streamlined-traditional" path, EPA would go through a streamlined process of the traditional rule development, with a presumptive MACT specification as an intermediate stage. No matter what path is chosen, almost all standards would go through phase one, namely, the presumptive MACT meeting and the second consultative stage.

The EPA has successfully worked with States and industry in the development of presumptive MACT in two pilot projects. One project concerned the MACT standard primary aluminum manufacturing. The States of Washington and New York worked with EPA in the development of a presumptive MACT. In addition, the Aluminum Manufacturers Association and its member companies participated. For the second project, EPA worked with the States of Wisconsin and Maryland to develop a presumptive MACT for bakers yeast manufacturing. Both EPA and State partners have worked with the industry to move from the presumptive MACT to develop a MACT standard that is scheduled to be proposed in the fall of 1995.

Currently, EPA is beginning more than 25 projects within the MACT Partnerships program. Presumptive MACT meetings are scheduled over the next several months. For the information of the public, EPA has developed a table of these projects and has added it to the Technology Transfer Network bulletin board system (TTN BBS) See ADDRESSES section above for information on how to access the TTN BBS. The list can be found under the Clean Air Act (Rules/Guidance/Policy) section, Title III: Hazardous Air Pollutants subsection and then the Status of Rules/Projects portion of the TTN BBS.

In summary, the MACT Partnerships program is one way to pursue new, assertive ways to develop MACT standards. MACT Partnerships is characterized by EPA and State/localities working together with industry and environmentalists to fulfill the mandate to set MACT standards for

sources of hazardous air pollutants. Given the mutual interest of all the stakeholders and EPA's current "budgetary" situation within the air toxics program, EPA has begun redefining its role in selected areas of MACT standard development for many MACT standards as a coordinator and facilitator.

### IV. Request for Comments

With this notice the EPA is requesting comments on:

- (1) The concept of MACT Partnerships as an approach for streamlining the development of MACT standards,
- (2) How to improve the MACT Partnership approach,
- (3) Alternative ways to streamline the MACT development process, and
- (4) Using presumptive MACT as a starting point for case-by-case MACT determinations.

### V. Administrative Requirement

#### A. Paperwork Reduction Act

The request for comments detailed in this notice seeks voluntary responses and does not affect information collection burdens.

#### B. Executive Order 12866 Review

This notice is a request for comments and, therefore, was not reviewed by the Office of Management and Budget under Executive Order 12866. It was not considered significant.

Dated: March 14, 1995.

**Mary D. Nichols,**

*Assistant Administrator for Air and Radiation.*

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### 40 CFR Part 63

[AD-FRL-5175-9]

RIN 2060-AE37

**National Emission Standards for Hazardous Air Pollutant Emissions From the Production of Acrylonitrile Butadiene Styrene (ABS) Resin, Styrene Acrylonitrile (SAN) Resin, Methyl Methacrylate Acrylonitrile Butadiene Styrene (MABS) Resin, Methyl Methacrylate Butadiene Styrene (MBS) Resin, Polystyrene Resin, Poly (Ethylene Terephthalate) (PET) Resin, and Nitrile Resin (Group IV Polymers and Resins)**

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Proposed rule and notice of public hearing.